

**UNITED STATES DISTRICT COURT
DISTRICT OF DELAWARE**

MATT PASQUINELLI and BRYAN PAYSEN, Individually and on Behalf of All Others Similarly Situated,

Plaintiffs,

v.

HUMBL, LLC, BRIAN FOOTE, JEFFREY HINSHAW, GEORGE SHARP, KAREN GARCIA, and MICHELE RIVERA,

Defendants.

Case No. 1:23-cv-00743-JLH

District Judge Jennifer L. Hall

**APPENDIX TO THE HUMBL
DEFENDANTS' BRIEF IN
SUPPORT OF THEIR MOTION
TO DISMISS THE SECOND
AMENDED CLASS ACTION
COMPLAINT**

Filed: October 30, 2023

Defendants HUMBL, Inc., Brian Foote, Jeffrey Hinshaw, Karen Garcia, and Michele Rivera (collectively, the “HUMBL Defendants”) submit the following Appendix to their Brief in Support of their Motion to Dismiss the Second Amended Class Action Complaint.

[Content begins on next page.]

Allegedly “False and/or Misleading Statements”

Statements Quoted (or Partially Quoted) in the Complaint	Other Statements From Same Document/Presentation But Omitted from the Complaint
<u>Functionality of HUMBL’s Mobile App</u>	
November 12, 2020 Press Release (SAC ¶¶ 282-283) ¹	
<p>“HUMBL has <i>designed</i> a mobile wallet (HUMBL®)” (Emphasis added.)</p> <p>“The HUMBL® Mobile App delivers borderless transactions. . . . HUMBL® provides greater access and portability than US only mobile wallet providers, such as Venmo® and Zelle®.”</p>	<p>“HUMBL’s global money platform <i>will deliver</i> up to 50% estimated savings on transactions such as: sending, receiving, lending, borrowing, investing money and paying bills.” (Emphasis added.)</p> <p>“For those customers without a smartphone, HUMBL Hubs™ <i>will allow</i> participating merchants to deliver contactless payments, text ordering and money services across the full pyramid of end-users in these markets.” (Emphasis added).</p> <p>“Safe Harbor Statement</p> <p><i>This release contains forward-looking statements</i> within the meaning of the Private Securities Litigation Reform Act of 1995. You can identify these statements by the use of the words "may," "will," "should," "plans," "expects," "anticipates," "continue," "estimates," "projects," "intends," and similar expressions.</p>

¹ See Declaration of Jeffrey Hinshaw in Support of the HUMBL Defendants’ Motion to Dismiss the Second Amended Class Action Complaint (“Hinshaw Decl.”), Ex. A. The Hinshaw Declaration attaches complete copies of each of the written documents containing the statements at issue and is being filed contemporaneously herewith.

	<p>Forward-looking statements involve risks and uncertainties that could cause results to differ materially from those projected or anticipated. These <i>risks and uncertainties include</i>, but are not limited to, <i>the Company's ability to successfully execute its expanded business strategy, including by entering into definitive agreements with suppliers, commercial partners and customers; general economic and business conditions, effects of continued geopolitical unrest and regional conflicts, competition, changes in technology and methods of marketing, delays in completing various engineering and manufacturing programs, changes in customer order patterns, changes in product mix, continued success in technical advances and delivering technological innovations, shortages in components, production delays due to performance quality issues with outsourced components, regulatory requirements and the ability to meet them, government agency rules and changes, and various other factors beyond the Company's control.</i>" (Hereinafter, "Safe Harbor Statement" (emphasis added).)</p>
December 1, 2020 Press Release (SAC ¶¶ 293-296) ²	
<p>"HUMBL® Mobile App and HUMBL Hubs™ Merchant Solutions Deliver Successful <i>Pilot Transactions</i> Between United States and Mexico" (Emphasis added.)</p> <p>"Unlike US only mobile wallets like Venmo® or Zelle,® <i>we designed</i> HUMBL® so that it can go along with customers and merchants into places like Latin America . . ." (Emphasis added.)</p>	<p>"HUMBL commissioned a video crew to walk-through the variety of <i>market problems that it is addressing with its design</i> of HUMBL® mobile wallet and HUMBL Hubs™ merchant solutions in the United States and Baja California, Mexico." (Emphasis added.)</p> <p>[Included Safe Harbor Statement]</p>
<hr/> <p>² Hinshaw Decl., <u>Ex. B.</u></p>	

“In the HUMBL brand video, which will be premiered at the Dec. 9 investor call, ***beta testers*** are seen transacting within the HUMBL® mobile wallet to digitally send, receive and exchange currencies across the border; as well as paying, tipping and transacting with merchants.”

In addition, HUMBL® showcases financial technologies such as USD Stablecoins” (Emphasis added.)

“HUMBL® instantly makes life easier for me, my business and my customers here in Mexico,” said Fernando Cuevas, Founder of Tours in Baja, a HUMBL® ***pilot test partner*** and a lead affiliate sales representative in the region.

“Being able to pay people for goods and services digitally with HUMBL®, enables my customers to spend more time enjoying their trips, and less time seeking out ATM’s and cash payment options everywhere we go.” (Emphasis added.)

[Under background section titled “About HUMBL, Inc.”:] “The HUMBL® Mobile App delivers borderless transactions, by integrating multiple currencies, payment methods, banks, blockchain and financial services providers into one-click for the customer. HUMBL® provides greater access and portability than US only mobile wallet providers, such as Venmo® and Zelle® and ***will offer*** a HUMBL Hubs™ merchant software for clients without smartphones in certain domiciles.” (See also December 9, 2020 Press Release (SAC ¶¶ 297-300)³ (same language).)

³ Hinshaw Decl., Ex. C.

	December 9, 2020 Investor Call (SAC ¶¶ 297-301) ⁴
<p>“What do you guys have built right now? Right now, <i>in the barn</i>, we have – send money, request money, receive money, exchange money, Stable coins.” (Emphasis added.)</p> <p>“[T]hese are very real tools that are critical for folks to be able to park their money into USD Stablecoins and things like that. We have that capability, and <i>as we get regulatory clearances from different countries and domiciles, we'll be moving quickly</i> on that as well.” (Emphasis added.)</p> <p>“[T]hose traveling in from abroad want to use a mobile wallet that is multicurrency and multi-asset, and gives them the ability to, in a contactless capacity, point in pay. We've built that and you'll see that in the film.” (Emphasis added.)</p> <p>“We have CRM features, meaning we can take any offline cash only dead tech merchant who's like, ‘I just want to be able to take credit cards or bank accounts.’ We can turn them int[o] a digitally connected consumer relationship management merchant within a day.”</p> <p>“I challenged our Mexico sales team. I said ‘Go sign up a hundred merchants in a week.’ They came back with 300 merchants in three days.”</p>	<p>“So <i>we'll crawl, walk, run on how we roll out this business</i>. Just from a regulatory standpoint we want to have a really long-term run here. We're a hyper compliance-focused-organization. <i>So we'll keep some cars in the garage sometimes until we know exactly what is a go or no-go zone for the business.</i>” (at 00:20:49 (emphasis added).)</p>

⁴ Available at: <https://vimeo.com/489189832/ad57ab8452?share=copy>

	December 14, 2020 Press Release (SAC ¶¶ 302-303) ⁵
<p>“HUMBL announced today the launch of its HUMBL Holiday Deal Days merchant campaign. Upon signing up for a HUMBL® Pay account, customers <i>will be able</i> to shop the HUMBL Marketplace for highly curated holiday deals, coupon codes and affiliate discount links in shopping verticals like electronics, health, beauty, home, fashion, fitness, and kids.” (Emphasis added.)</p> <p>“The HUMBL Deal Days campaign enables HUMBL® Pay global customers to shop online hassle-free by locating the best deals on the internet while avoiding broken links, fake merchandise and expired coupon codes.”</p>	[Included Safe Harbor Statement]
January 22, 2021 Investor Call (SAC ¶¶ 304-305) ⁶	
<p>“We wanted to just show that we’re a promises made, promises kept organization. I think we’re really on track with everything that we promised to the shareholders, if not ahead of schedule bumping up the <i>Q1 app release likely in February and then migrating into other service loads</i>, like peer-to-peer, HUMBL Hubs.” (Emphasis added.)</p>	[Included Safe Harbor Statement] (at 00:00:01).
February 25, 2021 Press Release (SAC ¶¶ 308-309) ⁷	

⁵ Hinshaw Decl., Ex. D.

⁶ Available at: <https://vimeo.com/503668084/8def590555?share=copy>

⁷ Hinshaw Decl., Ex. E.

<p>In press release on a different topic, in a background section titled “About HUMBL, Inc.,” the release stated: “The HUMBL® Mobile App delivers more seamless global transactions, by integrating multiple currencies, payment methods and financial services into one-click for the customer, beyond primarily US only mobile wallet providers such as Zelle® and Venmo®.”</p>	<p>In the beginning of the same background section: “The <i>mission</i> of HUMBL, Inc. is to deliver more seamless digital pairing experiences for consumers and merchants in the global economy.”</p> <p>[Included Safe Harbor Statement]</p>
<p>February 26, 2021 Investor Call (SAC ¶¶ 314-315)⁸</p>	
<p><i>“We’re tracking very well to continue to release this product in quarter two, as stated in our first month one and month two conference calls.”</i> (Emphasis added.)</p>	<p>“There’s a couple of things from a regulatory and a legal and a compliance standpoint that gave me a little bit of pause, <i>so bear with us</i> over the next you know four to six weeks about how we figure out some things. <i>I want to make sure we have our legals really buttoned up just in terms of how we’re rolling out this product.</i> You know, as I say, we take a 20 to 30-year view on the business. <i>I don’t want to, you know, come out three weeks too early and commit some foot fault</i> that that we’re paying for with, you know, any kind of legal or compliance concerns, <i>so bear with us there.</i> But note that the app is being stress <i>tested in beta behind the scenes</i> by a really terrific tech team and QA teams and agencies that have built some of the apps you would recognize. You know at any given time we’re 30 or 35 people now at HUMBL. I think, you know, our technology team, <i>the engine inside is just fantastic,</i> so very blessed to have these guys online with us, and they’re doing a great job. So the app is living, it’s in App Store, it’s been approved, but we want to just try to get a little bit of guidance on a couple of features that I’m</p>

⁸ Available at: <https://vimeo.com/518201612/968c5a9173?share=copy>

	<p>a little bit just, not hesitant about, but wanting to get more clarity.” (at 00:19:30) (emphasis added).</p> <p>“You know, I like to say we have contracts for the engine that you would need to run Formula One. We’re the car and the tires and the brand and everything that sits around that. But again, just <i>the U.S. has some additional layers of regulatory and compliance complexity that we need to navigate with our banking partners to make sure that we don’t get out of the gates too quick</i> on some of the cars we have built. So we’re tracking very well to continue to release this product [sending peer-to-peer money] in quarter two as stated in our first month one and month two conference calls. So excited about that.” (at 00:23:01) (emphasis added).</p> <p>[Included Safe Harbor Statement] (at 00:00:01).</p>
April 16, 2021 Press Release (SAC ¶¶ 318-319) ⁹	
<p>“The HUMBL Pay mobile app <i>will allow</i> customers to discover merchants; as well as pay, tip, rate and review those same merchants in contactless transactions.</p> <p>The company has also integrated ticketing into the HUMBL Pay mobile application, for customers seeking to find and purchase tickets to live events; as well as click-through to HUMBL Financial™ services, along with third party credit and lending offers (US only).”</p>	<p>“The HUMBL Pay mobile app <i>will be rolled out in phases</i> over the coming weeks. . . . <i>The launch</i> of the HUMBL Pay mobile application <i>will be</i> accompanied by outdoor media campaigns the United States, Canada, Mexico, Australia and Singapore.” (Emphasis added.)</p> <p>[Included Safe Harbor Statement]</p>

⁹ Hinshaw Decl., Ex. F.

<u>HUMBL's Business Relationships and Prospects</u>	
November 12, 2020 Press Release (SAC ¶¶ 284-285) ¹⁰	
<p>“HUMBL . . . has created a global network of regional affiliates, who stand ready to implement sales and marketing programs in these corridors.”</p>	<p>“HUMBL’s global money platform <i>will deliver</i> up to 50% estimated savings on transactions such as: sending, receiving, lending, borrowing, investing money and paying bills.”</p> <p>[Included Safe Harbor Statement]</p>
November 24, 2020 Press Release (SAC ¶¶ 289-292) ¹¹	
<p>“Cyberbeat, a leading digital payments and financial technologies company led by veteran digital payment industry executives of the Asia Pacific region has made a strategic investment into HUMBL, LLC.”</p> <p>“We have seen a number of technology cycles over the decades at Cyberbeat’ . . . stated Cyberbeat CEO, Rajan S. Narayan.”</p> <p>“We view this opportunity to establish this global relationship with a proven winner in the Asia Pacific region a significant achievement for HUMBL in the coming year. The Cyberbeat team has helped Fortune 500 brands expand their footprint into this region for decades . . .”</p>	<p>“Cyberbeat <i>executives</i> have had a proven track record of implementing and offering digital and traditional payment solutions of US-based partners . . .” (Emphasis added.)</p> <p>[Included Safe Harbor Statement]</p>

¹⁰ Hinshaw Decl., Ex. A.

¹¹ Hinshaw Decl., Ex. G.

	January 22, 2021 Shareholder Letter (SAC ¶¶ 304-305) ¹²
“[W]e have secured . . . [o]ur first of multiple option payments on a distribution rights deal in Oceania region. We are underway on the development of <i>plans</i> to enter the region with this group.” (Emphasis added.)	[Included Safe Harbor Statement]
	March 16, 2021 Press Release (SAC ¶¶ 316-317) ¹³
“HUMBL and Aurea Group are already underway on HUMBL Latin America <i>business development discussions</i> in key verticals such as: banking, merchant and financial services, real estate, hospitality, tourism, sports, festivals, entertainment and ticketing services in the region.” (Emphasis added.)	[Included Safe Harbor Statement]
	May 7, 2021 Investor Call (SAC ¶¶ 322, 324) ¹⁴
“We are <i>driving revenues across all three of our business lines</i> so subscription revenues through the ETXs, transaction revenues, ticketing, vendors, and NFTs. If you look at top shots in the NBA doing \$350 million a month on NFTs, there are hundreds of professional sports leagues around the world, <i>we are having incredibly compelling discussions in key verticals of NFTs, sports,</i>	“We are <i>going to do</i> some really thoughtful, creative things with the repurposing of NFTs that <i>I believe will give</i> catalogs of content a whole second life in the digital metaverse. . . . So, amazing <i>conversations in this zone</i> that fit perfectly within mobile pay, NFTs, ticketing, and immersive experiences. <i>So we're thrilled to be jumping into that space</i> , and it fits perfectly

¹² Hinshaw Decl., Ex. H.

¹³ Hinshaw Decl., Ex. I.

¹⁴ Available at: <https://vimeo.com/546913418/e34814a684?share=copy>

<p><i>gaming, photography, entertainment, previous catalogs.”</i></p> <p>“<i>[W]e need to start working the revenues</i> and the fundamentals and getting into a process of building a very lasting business. <i>Part of the way we will do that is through the ticketing piece.</i> The Tickeri side, they have already achieved one of their post-COVID goals, which was to achieve \$1 million in gross ticket sales over the last 30-day rolling period. Sorry for that typo there. In gross ticket sales over the last 30-day rolling period, aligning well across Mobile Pay and NFTs, a 33% increase in ticketing sales over the previous 30-day period.”</p>	<p>within our mobile app.” (at 00:17:17)</p> <p>In slide deck shown during teleconference (starting at 00:16:27):</p> <ul style="list-style-type: none"> “ - Transaction revenue across marketplace in ticketing, vendor shops, and <i>coming soon with NFTs</i>” (emphasis added) “- Our growth strategy is focused on investments across all our engineering teams, performance marketing, M&A and Tickeri international expansion” <p>[Included Safe Harbor Statement] (at 00:00:01)</p>
--	---

June 30, 2021 Investor Call (SAC ¶¶ 323-324)¹⁵

<p>“We completed two acquisitions, so Tickeri, Monster Creative an incredible Hollywood studio doing some of the best work in the world creatively that will service on NFTs, ticketing, multimedia content, all the things that we’re trying to do as a platform. . . . <i>They’re super accretive.</i>”</p> <p>“Then we’re driving sales volume, so revenues. <i>We’ll be doing revenues</i> of transaction volumes of over a million dollars a month already at HUMBL in our first full quarter as a business, so revenues.”</p>	<p>In slide deck shown contemporaneously during teleconference:</p> <ul style="list-style-type: none"> “- Launched HUMBL NFT Gallery <i>Test</i>” (at 00:26.27) (emphasis added) <p>“<i>NFT Gallery—we did a test there.</i> There’s about—I don’t know—<i>five or ten features we felt like we were lacking on that.</i> So <i>we are now in the process of a v2 NFT marketplace build</i> that I think should hit in August. This is from a very good subcontractor that we’re working with along with our in-house teams to land the plane.” (at 00:26:27) (emphasis added)</p> <p>“In terms of HUMBL ticketing, we acquired Tickeri. Thrilled to partner with them. <i>Can’t wait to grow that business together. . . .</i></p>
---	--

¹⁵ Available at: <https://vimeo.com/569620441/be891bcd6e?share=copy>

	<p>. A lot of this stuff <i>will sit inside the HUMBL app</i>. And <i>I'm on the look now for another ticketing business to acquire</i>, perhaps that is even higher in volume for the U.S. mid-market. So, you know, <i>no guarantees, but I'm hunting.</i>" (at 00:53:58) (emphasis added.)</p> <p>"In terms of the <i>ticketing platform—again, under construction, will occur in Q3</i>. You're gonna be able to—<i>we're gonna have</i> a customized HUMBL ticketing experience, so if we do buy a U.S. mid-market ticketing brokerage for primary and secondary, we'll tuck that under HUMBL ticketing." (at 00:54:50)</p> <p>[Included Safe Harbor Statement] (at 00:00:01)</p>
--	--

Conversion or Dilution of HUMBL Stock

November 17, 2020 Press Release (SAC ¶¶ 286-288)¹⁶

"[T]he company's CEO and President, Brian Foote, has agreed to convert over 318 million shares recently purchased by him out of the retail market to a new class of Preferred shares. . . .

Upon completion of the conversion, Tesoro's issued and outstanding number of common shares will have been reduced by over 860 million shares since Mr. Foote became President of Tesoro.

The company does not *anticipate* that the number of common shares outstanding will increase during the remainder of 2020 and

[Included Safe Harbor Statement]

¹⁶ Hinshaw Decl., Ex. J.

throughout 2021.” (Emphasis added.)	
February 25, 2021 Press Release (SAC ¶¶ 308, 310-311) ¹⁷	
<p>“HUMBL has executed a one for four (1:4) reverse split of its common stock, and made other changes to its share structure, including the creation of restricted preferred classes of shares which will be issued to former members of HUMBL, LLC and prospective investors of HUMBL.”</p> <p>“The company’s Board of Directors concluded that it was important to quell the volatility in the share price. Prospective investors and current shareholders were concerned that it was difficult to pinpoint the true value of the common shares. Furthermore, this will force any outstanding short positions to cover their position. The board was also sympathetic to the need not to wipe out the holdings of the shareholders, and therefore determined that this small reverse split would satisfy both requirements.””</p>	[Included Safe Harbor Statement]

¹⁷ Hinshaw Decl., Ex. E.

February 26, 2021 Investor Call (SAC ¶¶ 312-313) ¹⁸	
Defendant Sharp said, “If you’re worried about dilution, don’t be.”	<p><i>We don’t anticipate any dilution before the end of this year,</i> certainly. And even then, this is not your typical OTC stock. <i>We believe</i> these are investors rather than necessarily profit-takers.” (at 00:09:22 (emphasis added).)</p> <p>[Included Safe Harbor Statement] (at 00:00:01)</p>
April 20, 2021 Tweet (SAC ¶¶ 320-321) ¹⁹	
“I will commit to not selling any of those personal shares for the entirety of Calendar Year 2021-2022.”	Full statement: “We have noted some concern re: <i>the Series B preferred shares (of which I own 45%)</i> that are not eligible to be converted until December ‘21. <i>I will commit to not selling any of those personal shares</i> for the entirety of Calendar Year 2021-2022.”

¹⁸ Available at: <https://vimeo.com/518201612/968c5a9173?share=copy>

¹⁹ Hinshaw Decl., Ex. K.